

TN DEPT. OF ENV. & CONSERVATION  
DEC 18 2020  
DIVISION OF WATER RESOURCES

### **Aquatic Resource Alteration Permit NRS 20.089 Appeal**

Dear Jennifer Dodd and TDEC Appeals,

This document is being written as an appeal to the approval of the Byhalia Oil Pipeline Project. There are many residents and local organizations opposed to this project and many have written for this project to be denied on multiple grounds, but unfortunately, all those reasons were disregarded. The community still believes that this pipeline should be denied as the threat of the pipeline construction to the habitat and water streams outweigh any economic gains that would be received by the City of Memphis and Shelby County.

According to the approved document, TDEC requires reasonable assurance that the activity will not violate provisions of the Tennessee Water Control Act of 1977. Furthermore, the permit assures the Best Management Practices will be used and will not not authorize adverse impacts to cultural, historical, or archeological features or sites. Alternative 5 (Boxtown) was selected as the preferred alternative as impacts to waters are said to be temporary during construction and the avoidance and minimization measures, as incorporated will reduce the temporary impacts.

#### **Routes**

The selected route (Alternative 5) states that there are no significant adverse environmental consequences, yet,

- Alternative 1 is impractical because it crosses residential areas which will raise safety concerns; however, the pipeline will cross neighborhoods through Chickamauga Avenue and Mossville. The concern of neighborhood crossings does not appear to be consistent because Alternative 5 also will be in a residential area.
- The route crosses McKellar Lake which was listed as a difficult path and was mentioned as unfeasible for Alternative 2. The project should also not be feasible for Alternative 5 as the pipeline would still cross the lake.
- Alternative 3 is stated to be near the Chucalissa Archaeological Park, and because it is close to cultural resources was not chosen, yet Chickamauga Avenue (the pipeline will be constructed in this area) is only 3.3 miles away from the same park. From Skylark Drive, also a local road in which the pipeline will be constructed outside of, is only 2.2 miles from the park. There is no location in southwest Memphis that is not significantly close to the cultural site until you reach Mitchell Road and go west which is not the chosen route of the pipeline.

## Habitat Removal

According to an article written by Deborah Arnwine and Gregory M. Denton titled, Habitat Quality of Least-Impacted Streams in Tennessee (November 2001), Chapter 1200-4-3-03(3)(j), the rules of TDEC, “waters shall not be modified through the addition of pollutants or through physical alteration to the extent that the diversity and/or productivity or aquatic biota within the receiving waters are substantially decreased or adversely affected”. Habitats function holistically so any changes to any part may affect the entire habitat (Evaluate Habitat from Department of West Virginia). The removal of any habitat into Ensley Bottoms will not equate to survival and is merely a gamble. There are no scientific facts that yield confidence in removing habitats to other locations, especially for human advances such as pipeline construction.

## Riparian Vegetation

Horn Lake Creek

Cypress Creek

Both creeks and its contents will be affected by the move to Ensley Bottoms significantly because of *riparian vegetation*. Furthermore, impacts from land disturbing activities and the removal of riparian vegetation adds sediment to streams. This makes it difficult for animals to see food, clogs fish gills, reduces resistance to disease and affects fish egg and larvae development. Simply put, this land disturbing activity greatly increases pollution to this area and would adversely affect this community tremendously.

The permit document mentions that any adjustments/changes to the habitat would be temporary and not significant. Science does not support this statement. Although degradation of native riparian plant communities by forestry, agriculture and grazing can often be reversed, other practices such as drainage modifications and structural developments in urban areas generally lead to irreversible changes in riparian areas over long time periods (The Natural Academics of Sciences, Engineering, Medicine and Human Alteration of Riparian Areas). Science indicates that this move will have long term ramifications and consequences. TDEC should not allow this to happen. These streams will never be able to fully recover to its natural abilities if the essence of its contents will be torn and ravaged by machinery.

One result of human disturbance is that as flow regimes and sediment supply are altered, flood plains often become hydrologically disconnected from their channels through channel narrowing or flood plain aggradation. As flood plains and channels are decoupled, riparian plant performance declines, reducing many riparian species competitive abilities (Riparian Vegetation Response to Altered Disturbance and Stress Regimes, Shafroth, Stromberg & Patten). By moving the species, TDEC is also acknowledging that there will be species that will not survive. Plains All American know pipelines, they have no regard for nature and the items that have been placed by God in this community. TDEC must protect this land at all costs.

The landscape, substance, and water streams in and around Boxtown, Tennessee should not be disturbed. The items stated above would not be acceptable to be altered or changed in other areas in this state and this area of Tennessee deserves the same amount of protection. This is an environmental injustice if this project is approved as written. The Tennessee Department of Environment and Conservation should be working to uplift and preserve Boxtown, instead this Department is allowing

money and greed to disturb the natural beauty in the area and is also allowing certain protections of the land to be violated.

In the antidegradation statement, it states that TDEC has made a preliminary determination that the proposed activities will result in *de minimus* degradation because the applicant proposes to provide in-system mitigation to offset any appreciable permanent loss of resource values. TDEC has also determined that the proposed degradation is necessary to accommodate important economic or social development in the area. Science and facts has determined that this is not entirely possible and there is research that supports that. Human actions have been responsible for the loss and destruction of many habitats and their inhabitants. (Assisted Migration: Good Idea or Misguided Hope, Oldenlab, 2017) This (migration) is a novel conservation strategy, for which there are few documented examples of success, but many examples of the dangers of species introduction (Ricciardi and Simberloff, 2008). If assisted migration is debatable among those in conservation circles, why is TDEC not considering the uncertainties and the contradictions of this practice? Not only is the decision to approve this pipeline negligible and gross, it should also be considered unethical. This is a complete and total travesty, and a disregard of absolute and proven research. There are no certain results in this practice but again, TDEC is allowing this predominantly black community to be the guinea pigs and the test mice for a controversial environmental practice which will allow more pollution to creep into our backyards.

The residents in Bortown are tax paying citizens, in which those same tax dollars fund government entities. In turn, government entities are expected to work for and protect the people. That is not happening in this case unfortunately. TDEC is disregarding science and where there are areas of doubt, TDEC is overlooking and turning a blind eye (for the sake of economic growth according to the antidegradation statement). This is why we call it environmental racism. Do our tax dollars not spend the same, for the same protections as the people living on the East Side of this city?

Please reconsider the approval of this permit. The residents in Bortown, Tennessee desperately need and deserve the same protections and considerations as other areas in Tennessee.

Thanks,

**Ex. 6 Personal Privacy (PP)**